



# Environmental Legislation Guidelines

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## Purpose

This guide supports the [Land Access and Cultural Heritage Policy](#)<sup>1</sup> and [Procedures](#)<sup>2</sup> by providing an overview of each Australian state and territory's environmental legislation, and what field workers must do and not do in regards to environmental protection in each jurisdiction. It also summarises further restrictions on activities undertaken in protected areas, such as national/state parks and reserves. It does not cover local council laws and regulations. For information about local council laws and regulations contact the relevant local council. It also does not refer to requirements under the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* or *Offshore Petroleum and Greenhouse Gas Storage (Environment) Regulations 2009*. This legislation may be included in a future version.

Only the most relevant and primary offences in regards to causing environmental harm are reflected here. Other related yet secondary offences are omitted, such as not complying with permits, notices, directions or orders. For more information on these offences, refer to the relevant legislation, permit, notice, direction or order. You must comply with these requirements.

In most cases, the legislation has been abbreviated or paraphrased for ease of reading and consistency. Please refer directly to the legislation if you require the precise wording.

## Summary of Australian environmental legislation

The following dot points are a summary of Australian environmental legislation. Please refer to the detailed information in the sections below for the specific details regarding the jurisdiction you will be working in.

- Most states and territories mandate a 'general environmental duty' to take reasonable care to not cause harm to the environment. The general environmental duty is supported by detailed offences for tiered levels of harm caused by specific levels of intent or neglect.
- Most offences are defensible if:
  - you can prove you took all reasonable care to not cause the harm, which may include following standards, regulations or conditions of an approval; or
  - you caused the environmental harm to prevent harm to life, property or the environment in an emergency situation.
- Generally, permits, approvals or 'environmental authorisations' are only required for prescribed activities or development projects. Prescribed activities are generally substantial in volume (for example, extracting hundreds of tons of material or processing thousands of tons of a substance) or involve the use of well-known pollutants. We generally do not undertake these activities at this scale, if at all.
- In the event of an incident that could cause or has caused environmental harm, most states and territories require you to make a report to the relevant authority via a 24 hour hotline or web portal. As well as reporting to the relevant authority, you should also report the incident to your Chief via your normal field work reporting process.
- Protected areas are subject to more stringent protection than is provided by general environmental protection legislation. Generally, you must get approval or a permit to conduct scientific activity in protected areas and work within the criteria, values or management plan of the protected area.

<sup>1</sup> D2018-32673

<sup>2</sup> D2018-96607

## Federal - *Environment Protection and Biodiversity Conservation Act 1999*<sup>3</sup>

### WHAT MUST YOU DO OR NOT DO?

You must not take an action that has, will have or is likely to have a significant impact on:

- §§ 12(1) and 15A – the world heritage values of a declared [World Heritage Property](#)<sup>4</sup> (a property included in the World Heritage List or declared to be a World Heritage Property by the Minister)
- § 15B-C – the National Heritage values, including indigenous heritage values, of a National Heritage place
- § 16 – a declared Ramsar wetland
- §§ 18-18A – a listed threatened species or ecological community
- §§ 20-20A – a listed migratory species
- §§ 23, 24A, 24B, 24C, 26 and 27A – the environment in a Commonwealth marine area, the Great Barrier Reef Marine Park or on Commonwealth land
- §§ 27B-27C – a Commonwealth heritage place outside the Australian jurisdiction
- § 28 – the environment inside or outside the Australian jurisdiction

The [Department of the Environment and Energy](#)<sup>5</sup> defines 'significant impact' as:

an impact which is important, notable, or of consequence, having regard to its context or intensity. Whether or not an action is likely to have a significant impact depends upon the sensitivity, value, and quality of the environment which is impacted, and upon the intensity, duration, magnitude and geographic extent of the impacts. You should consider all of these factors when determining whether an action is likely to have a significant impact on the environment.

§ 25 – You must not take an action that is prescribed by the [Environmental Protection and Biodiversity Regulations](#)<sup>6</sup> (Note: The Regulations do not currently prescribe any actions under § 25 of the Act).

§ 196 – You must not kill or injure a member of a listed threatened species or community in or on a Commonwealth area.

§ 229 – You must not kill or injure a cetacean in the Australian Whale Sanctuary or waters beyond the outer limits of the Australian Whale Sanctuary.

Subdivision 12.2.2 of the Regulations sets out a comprehensive list of activities that are prohibited or regulated in Commonwealth reserves, including:

- carrying out scientific research (12.10)
- dumping industrial waste (12.14)
- using poisonous substances (12.15)
- introducing, disturbing, or removing minerals, clay, sand, stone or other earth materials, or fossicking (12.16)
- entering or interfering with caves and karsts (12.17)
- entering prohibited or restricted areas (12.23)

<sup>3</sup> <https://www.legislation.gov.au/Series/C2004A00485>

<sup>4</sup> <http://www.environment.gov.au/heritage/places/world-heritage-list>

<sup>5</sup> <http://www.environment.gov.au/epbc/about/glossary#significant>

<sup>6</sup> <https://www.legislation.gov.au/Series/F2000B00190>

- capturing an image or recording a sound in contravention of a prohibition or restriction imposed by the Director under subregulation (3) (12.24)
- camping outside a described camping area or site (12.28).

### **WHEN IS A PERMIT/APPROVAL REQUIRED?**

You require [an approval](#)<sup>7</sup> from the Minister for the Environment and Energy to undertake proposed actions that could have a significant impact on any of the matters referenced above from the Act.

You require [a permit](#)<sup>8</sup> to undertake activities regulated or prohibited under the Regulations.

### **WHAT IS A DEFENCE?**

The offences listed above may not apply to an action if:

- you are acting under [an approval](#)<sup>9</sup>
- the action relates to an exception listed in Part 4, which includes:
  - bilateral agreements with a State or Territory
  - declarations by the Minister
  - conservation agreements
  - forestry operations in certain regions.

### **WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, HARM**

If there is a suspected or actual breach of the Act, [contact the Department of Environment and Energy](#)<sup>10</sup> as soon as is practicable.

### **MORE INFORMATION**

[Department of the Environment and Energy – EPBC Act](#)<sup>11</sup>

[Environment assessment and approval process](#)<sup>7</sup>

[Report a breach of the EPBC Act](#)<sup>10</sup>

<sup>7</sup> <http://www.environment.gov.au/protection/environment-assessments/assessment-and-approval-process>

<sup>8</sup> <http://www.environment.gov.au/topics/national-parks/parks-australia/permits-licences-and-leases>

<sup>9</sup> <http://www.environment.gov.au/protection/environment-assessments/assessment-and-approval-process>

<sup>10</sup> <http://www.environment.gov.au/epbc/compliance-and-enforcement/report-a-breach>

<sup>11</sup> <http://www.environment.gov.au/epbc>

## WHAT MUST YOU DO OR NOT DO?

§ 319(1) – General environmental duty: You must not carry out any activity that causes, or is likely to cause, environmental harm unless you take all reasonable and practicable measures to prevent or minimise the harm.

§ 319(2) – In deciding the measures required to be taken under § 319(1), you must have regard to:

- the nature of the harm or potential harm
- the sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the likelihood of successful application of the different measures that might be taken
- the financial implications of the different measures as they would relate to the type of activity.

§§ 437-438 – You must not wilfully and unlawfully cause serious or material environmental harm or nuisance.

## WHEN IS A PERMIT/APPROVAL REQUIRED?

§ 426 – You must hold or act under an environmental authority to carry out an environmentally relevant activity, except for small scale mining activity and some geothermal activities.

Environmentally relevant activities that may apply to us include resource activities that involve a geothermal, GHG storage, mining or petroleum activity as per § 107 (see §§ 109-111 for detailed definitions of these activities).

## WHAT IS A DEFENCE?

§ 493A(3) – It is a defence if you complied with the general environmental duty, such as taking all reasonable and practicable measures to prevent or minimise the harm. Other defences may also include:

- doing an activity that is lawful apart from the EPA Act
- doing an activity in accordance with an accredited environmental risk management plan
- acting according to an applicable code of practice.

## WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM

Division 2 – If an incident occurs that will or could cause **serious** or **material** environmental harm:

1. the person carrying out the activity must notify your check-in person as per your normal field work reporting process within 24 hours, unless there is a reasonable excuse. If they cannot notify the check-in person, notify the Department of Environment and Heritage Protection (DEHP) in writing via the 24/7 Pollution Hotline 1300 130 372 or fill an [Environmental nuisance complaint and/or pollution incident allegation form](#)<sup>13</sup> and email it to [pollutionhotline@EHP.qld.gov.au](mailto:pollutionhotline@EHP.qld.gov.au).
2. the check-in person must notify the relevant Chief/s of Division of the incident through the normal line management processes

<sup>12</sup> <https://www.legislation.qld.gov.au/view/html/inforce/current/act-1994-062>

<sup>13</sup> <http://www.ehp.qld.gov.au/licences-permits/business-industry/documents/form-nuisance-pollution-complaint-em2669.doc>

3. the relevant Chief/s of Division must:
  - a. notify the DEHP (as per step 1) within 24 hours of becoming aware of the event
  - b. notify in writing any occupier of the affected land or registered owner of the affected land as soon as is reasonably practicable after becoming aware of the event, or give public notice of the event.

## **MORE INFORMATION**

[Queensland Department of Environment and Heritage Protection](#)<sup>14</sup>

[Reporting Pollution](#)<sup>15</sup>

See [MyMinesOnline](#)<sup>16</sup> for information about environmental authorities relating to resource activities

[Guideline - The duty to notify of environmental harm](#)<sup>17</sup> (under § 320-§ 320G)

<sup>14</sup> <https://www.ehp.qld.gov.au/>

<sup>15</sup> <https://www.qld.gov.au/environment/pollution/reporting>

<sup>16</sup> <https://www.business.qld.gov.au/industries/mining-energy-water/resources/online-services/myminesonline>

<sup>17</sup> <https://www.ehp.qld.gov.au/assets/documents/pollution/management/contaminated-land/cm-gl-duty-notify-environmental-harm.pdf>

## Northern Territory – *Waste Management and Pollution Control Act*<sup>18</sup>

### **WHAT MUST YOU DO OR NOT DO?**

§ 12(1) – General environmental duty: When conducting an activity or performing an action that causes or is likely to cause pollution resulting in environmental harm or that generates or is likely to generate waste, you must take all reasonable and practicable measures to prevent or minimise the pollution or environmental harm, and reduce the amount of the waste.

### **WHEN IS A PERMIT/APPROVAL REQUIRED?**

We do not conduct any activities that require a permit or approval.

### **WHAT IS A DEFENCE?**

§ 12(2) – In determining which measures are reasonable and practicable, you must have regard to:

- the nature of the environmental harm and sensitivity of the environment into which a contaminant or waste is placed or may be placed
- current technical information reasonably available to the person in relation to the activity and the likelihood that a measure proposed in the information would minimise the pollution, environmental harm or waste that the activity or action may cause
- the financial implications of implementing or carrying out the measures.

§ 13(2) – You are taken to have complied with the general environmental duty if you have taken all measures specified in accordance with an approved code of practice.

### **WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM**

You must report pollution to the Environmental Protection Authority (EPA) as soon as practicable, but within 24 hours, of becoming aware of the incident, via their 24 hour Pollution Hotline 1800 064 567 or the [online reporting form](#).<sup>19</sup>

### **MORE INFORMATION**

[Northern Territory Environmental Protection Authority](#)<sup>20</sup>

[Pollution Report Form](#)<sup>19</sup>

<sup>18</sup> <https://legislation.nt.gov.au/Legislation/WASTE-MANAGEMENT-AND-POLLUTION-CONTROL-ACT>

<sup>19</sup> <https://ntepa.nt.gov.au/waste-pollution/hotline/pollution-report-form>

<sup>20</sup> <https://ntepa.nt.gov.au/>

### WHAT MUST YOU DO OR NOT DO?

§§ 49(2)-49(3) – You must not cause pollution or allow pollution to be caused.

§ 49A – You must not discharge or abandon, or cause or allow to be discharged or abandoned, in water or in any other place to which the public has access, any solid or liquid waste.

§ 50 – You must not cause or allow waste to be placed in any position from which the waste could reasonably be expected to gain access to any portion of the environment and would, in so gaining access, be likely to result in pollution.

§ 50A - You must not cause serious or material environmental harm or allow serious or material environmental harm to be caused.

### WHEN IS A PERMIT/APPROVAL REQUIRED?

If a proposed activity is likely to have a significant effect on the environment, you should [refer the proposed activity to the Environmental Protection Authority](#)<sup>22</sup> (EPA) for them to decide whether an environmental impact assessment is to be performed.

### WHAT IS A DEFENCE?

§§ 74(1) and (1AA) – It is a defence if it can be proved that an emission or an act causing environmental harm or a waste discharge occurred:

- for the purpose of preventing danger to human life or health or irreversible damage to a significant portion of the environment; or
- as a result of an accident caused otherwise than by the negligence

AND

- as soon as was reasonably practicable after that emission or act you [notified the Department of Water and Environmental Regulation](#)<sup>23</sup> (DWER).

§ 74(1a) – For the offences listed above, it is a defence if it can be proved that you took reasonable precautions and exercised due diligence to prevent the commission of the offence, and as soon as was reasonably practicable after the occurrence that gave rise to the charge you [notified the DWER](#)<sup>23</sup>.

§ 74A – It is a defence if the act occurred in accordance with a prescribed standard, permit or approval.

### WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM

You must report pollution via DWER's 24 hour Pollution Watch hotline 1300 784 782 or use the [online reporting form](#)<sup>24</sup>.

<sup>21</sup> [https://www.legislation.wa.gov.au/legislation/statutes.nsf/main\\_mrtitle\\_304\\_homepage.html](https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_304_homepage.html)

<sup>22</sup> <http://www.epa.wa.gov.au/step-step-through-proposal-assessment-process>

<sup>23</sup> <https://www.der.wa.gov.au/your-environment/reporting-pollution>

<sup>24</sup> <https://www.der.wa.gov.au/your-environment/reporting-pollution>

## MORE INFORMATION

[West Australian Environmental Protection Authority](#)<sup>25</sup>

[West Australian Department of Water and Environmental Regulation](#)<sup>26</sup>

[About environmental impact assessment](#)<sup>27</sup>

[Step-by-step through the proposal assessment process](#)<sup>28</sup>

[Guidelines and procedures](#)<sup>29</sup>

[Reporting pollution](#)<sup>30</sup>

<sup>25</sup> <http://www.epa.wa.gov.au/>

<sup>26</sup> <https://www.dwer.wa.gov.au/>

<sup>27</sup> <http://www.epa.wa.gov.au/about-environmental-impact-assessment>

<sup>28</sup> <http://www.epa.wa.gov.au/step-step-through-proposal-assessment-process>

<sup>29</sup> <http://www.epa.wa.gov.au/guidelines-and-procedures>

<sup>30</sup> <https://www.der.wa.gov.au/your-environment/reporting-pollution>

## South Australia – *Environment Protection Act 1993*<sup>31</sup>

### WHAT MUST YOU DO OR NOT DO?

§§ 25(1) and (2) – General environmental duty: You must not undertake an activity that pollutes, or might pollute, the environment unless you take all reasonable and practicable measures to prevent or minimise any resulting environmental harm.

In determining what measures are required, regard is to be had, amongst other things, to:

- the nature of the pollution or potential pollution and the sensitivity of the receiving environment
- the financial implications of the various measures that might be taken as those implications relate to the class of persons undertaking activities of the same or a similar kind
- the current state of technical knowledge and likelihood of successful application of the various measures that might be taken.

§§ 79-82 – You must not cause environmental nuisance or harm environmental harm.

### WHEN IS A PERMIT/APPROVAL REQUIRED?

§ 36(1) – You require an [environmental authorisation](#)<sup>32</sup> to undertake prescribed activities of environmental significance, as per Schedule 1 of the Act. We do not generally conduct any prescribed activities at or above the threshold requiring an authorisation, with the possible exception of helicopter operations. You require an authorisation to operate a helicopter land facility for more than 10 days per year or within 1 kilometre from residential premises not associated with the facilities.

### WHAT IS A DEFENCE?

§§ 25(3)(a) and 84(1)(a) – It is a defence if you have not contravened mandatory provisions or conditions.

§§ 25(3)(b) and 84(1)(b) – It is a defence if you have complied with the provisions of an environment protection policy or condition.

### WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM

§ 83 – If you cause or may threaten to cause serious or material environmental harm from pollution in the course of an activity, you must, as soon as reasonably practicable after becoming aware of the harm or threatened harm, notify the Environment Protection Authority (EPA) via email [epainfo@sa.gov.au](mailto:epainfo@sa.gov.au) or phone (08) 8204 2004 or 1800 623 445 (non-metropolitan callers).

### MORE INFORMATION

[Environment Protection Authority South Australia](#)<sup>33</sup>

[Environmental authorisations](#)<sup>34</sup>

[Incident Reporting](#)<sup>35</sup>

<sup>31</sup> <https://www.legislation.sa.gov.au/LZ/C/A/ENVIRONMENT%20PROTECTION%20ACT%201993.aspx>

<sup>32</sup> [http://www.epa.sa.gov.au/data\\_and\\_publications/environmental\\_authorisations\\_licences](http://www.epa.sa.gov.au/data_and_publications/environmental_authorisations_licences)

<sup>33</sup> <http://www.epa.sa.gov.au/>

<sup>34</sup> [http://www.epa.sa.gov.au/data\\_and\\_publications/environmental\\_authorisations\\_licences](http://www.epa.sa.gov.au/data_and_publications/environmental_authorisations_licences)

## New South Wales – *Protection of the Environment Operations Act 1997*<sup>36</sup>

### WHAT MUST YOU DO OR NOT DO?

§ 115(1) – You must not wilfully or negligently dispose of waste in a manner that harms or is likely to harm the environment.

§ 116(1) – You must not wilfully or negligently cause any substance to leak, spill or otherwise escape (whether or not from a container) in a manner that harms or is likely to harm the environment.

§ 117 – You must not wilfully or negligently cause any controlled substance (within the meaning of the *Ozone Protection Act 1989*<sup>37</sup>) to be emitted into the atmosphere in contravention of the regulations under that Act and in a manner that harms or is likely to harm the environment.

§ 120 – You must not pollute any waters, or cause or permit any waters to be polluted.

§ 142A – You must not pollute land, or cause or permit land to be polluted.

### WHEN IS A PERMIT/APPROVAL REQUIRED?

§ 31 – You require a **permit**<sup>38</sup> for **petroleum**<sup>39</sup> exploration, assessment and production, except if the activity is one of the following activities and is carried out on land other than land in an **environmentally sensitive area of State significance**<sup>40</sup> :

- geological mapping and airborne surveying
- sampling and coring using hand-held equipment
- geophysical (including seismic) surveying and downhole logging
- accessing of areas by vehicle that does not involve the construction of an access way such as a track or road
- soil sampling by machinery
- constructing, maintaining or using equipment to monitor subsidence, noise, groundwater or the weather
- constructing, maintaining or using roads consistent with best practice industry standards as outlined in the document entitled *Managing urban stormwater: Soils and construction (Volume 2C: Unsealed roads)*, published by the Department of Environment and Climate Change, dated January 2008
- recovering, obtaining or removing coal seam gas in the course of coal mining.

### WHAT IS A DEFENCE?

§ 115(2) [against § 115(1)] – It is a defence if you can establish that you disposed of the waste with lawful authority.

<sup>35</sup> [http://www.epa.sa.gov.au/our\\_work/incident\\_reporting](http://www.epa.sa.gov.au/our_work/incident_reporting)

<sup>36</sup> <https://www.legislation.nsw.gov.au/#/view/act/1997/156>

<sup>37</sup> [http://www.legislation.nsw.gov.au/\\*view/act/1989/208](http://www.legislation.nsw.gov.au/*view/act/1989/208)

<sup>38</sup> <https://www.resourcesandenergy.nsw.gov.au/miners-and-explorers/applications-and-approvals/environmental-assessment/petroleum-exploration-and-production/petroleum>

<sup>39</sup> **Petroleum** has the same meaning as in the *Petroleum (Onshore) Act 1991*.

<sup>40</sup> **Environmentally sensitive area of State significance** has the same meaning as in *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

§ 116(4) [against § 116(1)] – It is a defence if you can establish that you caused the leak, spill or escape with lawful authority.

§ 118 General defence – It is a defence if you committed the offence due to causes over which you had no control, and you took reasonable precautions and exercised due diligence to prevent the commission of the offence.

§§ 42B and 142C [against § 142A] – It is a defence if the pollution resulted from an activity regulated by a regulation and the requirements of that regulation were not contravened, or the pollution was regulated by an environmental protection licence and the conditions of that licence were not contravened.

### **WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM**

§ 148 – If an activity causes or threatens material environmental harm, you must, immediately after you become aware of the incident, [report the incident](#).<sup>41</sup>

### **MORE INFORMATION**

[NSW Environment Protection Authority](#)<sup>42</sup>

[Acts and Regulations relevant to the NSW Office of Environment and Heritage](#)<sup>43</sup>

[Report a problem](#)<sup>44</sup>

<sup>41</sup> <http://www.environment.nsw.gov.au/pollution/other.htm>

<sup>42</sup> <https://www.epa.nsw.gov.au/>

<sup>43</sup> <http://www.environment.nsw.gov.au/policy-and-law/legislation>

<sup>44</sup> <http://www.environment.nsw.gov.au/about-us/contact-us/report-a-problem>

## Victoria – Environment Protection Act 1970<sup>45</sup>

### WHAT MUST YOU DO OR NOT DO?

§§ 38, 40 and 44 – You must not discharge or deposit wastes in water, the atmosphere or onto land contrary to a State environment protection policy or waste management policy.

§§ 39, 41 and 45 – You must not pollute the atmosphere, land or waters so that the condition of the atmosphere is so changed as to make or be reasonably expected to make the atmosphere, land or waters:

- noxious or poisonous or offensive to the senses of human beings
- harmful or potentially harmful to the health, welfare, safety or property of human beings
- poisonous, harmful or potentially harmful to animals, birds or wildlife
- poisonous, harmful or potentially harmful to plants or other vegetation
- detrimental to any beneficial use made of the atmosphere, land or waters.

### WHEN IS A PERMIT/APPROVAL REQUIRED?

You only require a licence to operate a scheduled premises. We do not hold or operate any scheduled premises.

### WHAT IS A DEFENCE?

§ 30B – It is a defence if you can prove that the incident to which the charge relates occurred in an emergency to prevent danger to life or limb, and as soon as reasonably practicable after that discharge, emission or deposit of waste you [notified the EPA](#)<sup>46</sup>.

### WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM

Report pollution to the EPA [online](#)<sup>47</sup> or by phone 1300 372 482.

### MORE INFORMATION

[Environment Protection Authority Victoria](#)<sup>48</sup>

[Report Pollution](#)<sup>49</sup>

[EPA Interaction Portal](#)<sup>50</sup>

<sup>45</sup>

[http://www.legislation.vic.gov.au/domino/Web\\_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/c7131dc25197a476ca257347000a99b1!OpenDocument](http://www.legislation.vic.gov.au/domino/Web_notes/LDMS/PubLawToday.nsf/95c43dd4eac71a68ca256dde00056e7b/c7131dc25197a476ca257347000a99b1!OpenDocument)

<sup>46</sup> <http://www.epa.vic.gov.au/get-involved/report-pollution>

<sup>47</sup> <https://portal.epa.vic.gov.au/irj/portal>

<sup>48</sup> <http://www.epa.vic.gov.au/>

<sup>49</sup> <http://www.epa.vic.gov.au/get-involved/report-pollution>

<sup>50</sup> <https://portal.epa.vic.gov.au/irj/portal>

### **WHAT MUST YOU DO OR NOT DO?**

§ 23A(1) – You must take practicable or reasonable steps to prevent or minimise environmental harm or environmental nuisance caused, or likely to be caused, by an activity you conduct.

§§ 50 and 51 – You must not cause serious or material environmental harm by polluting the environment intentionally or recklessly and with the knowledge that serious environmental harm will or might result.

§ 51A51 – You must not deposit a pollutant, or cause or allow a pollutant to be deposited, in a place or position where it could reasonably be expected to cause serious environmental harm.

§ 5351 – You must not wilfully and unlawfully cause an environmental nuisance.

### **WHEN IS A PERMIT/APPROVAL REQUIRED?**

We do not undertake activities that require a permit under the Act.

### **WHAT IS A DEFENCE?**

§ 23A(2) – In determining whether a person has complied with the general environmental duty, regard must be had to all the circumstances of the conduct of the activity, including but not limited to:

- the nature of the harm or nuisance or likely harm or nuisance
- the sensitivity of the environment into which a pollutant is discharged, emitted or deposited
- the current state of technical knowledge for the activity
- the likelihood and degree of success in preventing or minimising the harm or nuisance of each of the measures that might be taken
- the financial implications of taking each of those measures.

§ 55A – It is a defence if you emit a pollutant below the quantities, concentrations, emission rates, discharge rates or overall volumes set in a State policy, environmental protection policy, condition or restriction specified in an environmental licence or as a condition in a permit or a special permit.

§ 23A(4) – It is a defence if you took all measures specified in a code of practice made and approved in accordance with the regulations.

§§ 55(1) and 55(3) – It is a defence if you can prove:

- you took all reasonable and practicable measures to prevent the commission of the offence; or you acted to protect life, the environment or property in a situation of emergency and took all reasonable and practicable measures to prevent or deal with such an emergency; and
- that proper systems and procedures were also in place, promoted and enforced to ensure that known breaches of the Act were reported to GA.

### **WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM**

Report pollution through the EPA Pollution Incidents and Complaints Hotline 1800 005 171.

<sup>51</sup> <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1994-044>

## MORE INFORMATION

[Environment Protection Authority Tasmania](#)<sup>52</sup>

[Notification of Pollution Incidents](#)<sup>53</sup>

<sup>52</sup> <http://epa.tas.gov.au/>

<sup>53</sup> <http://epa.tas.gov.au/Pages/Notification-of-Pollution-Incidents.aspx>

## WHAT MUST YOU DO OR NOT DO?

§ 22 – General environmental duty: You must take the steps that are practicable and reasonable to prevent or minimise environmental harm or environmental nuisance caused, or likely to be caused, by an activity, taking into account the risk of environmental harm or environmental nuisance involved in conducting the activity.

In addition, regard must then be had to:

- the nature and sensitivity of the receiving environment
- the current state of technical knowledge for the activity
- the financial implications of taking the steps in mentioned in subsection (1)
- the likelihood and degree of success in preventing or minimising the environmental harm or environmental nuisance of each of the steps that might be taken
- other circumstance relevant to the conduct of the activity.

§§ 137-139 – You must not knowingly, recklessly, negligently or otherwise pollute the environment so as to cause environmental harm or nuisance.

§ 142 – You must not cause or allow a pollutant or the source of a pollutant to be placed in a position as a result of which the pollutant could reasonably be expected to cause environmental harm.

## WHEN IS A PERMIT/APPROVAL REQUIRED?

A permit/approval is required when undertaking Class A or B activities, as per Schedule 1 of the *Environment Protection Act 1997*<sup>55</sup>. Note, we do not expect to undertake any Class A or B activities.

## WHAT IS A DEFENCE?

§ 153 – It is a defence if you exercise due diligence to prevent the act or omission, which may include taking steps to ensure awareness of the requirements of the Act and other relevant laws and standards, ensure compliance with those laws and standards, or the establishment and implementation of an environmental management system.

§ 154 – It is a defence if the act or omission was necessary to protect life, the environment or property in an emergency situation and you took all reasonable and practicable measures to prevent or deal with the emergency.

## WHAT TO DO IF THERE IS AN INCIDENT CAUSING, OR THREATENING TO CAUSE, POLLUTION OR ENVIRONMENTAL HARM

Notify the EPA as soon as possible via Access Canberra 13 22 81.

## MORE INFORMATION

[Environment protection](#)<sup>56</sup>

<sup>54</sup> <http://www.legislation.act.gov.au/a/1997-92/default.asp>

<sup>55</sup> <http://www.legislation.act.gov.au/a/1997-92/default.asp>

<sup>56</sup> [https://www.accesscanberra.act.gov.au/app/answers/detail/a\\_id/3149](https://www.accesscanberra.act.gov.au/app/answers/detail/a_id/3149)

## Protected Areas

Protected areas are subject to more stringent protection than is provided by general environmental protection legislation. Generally, you must get approval or a permit to conduct scientific activity in protected areas.

There are many types of environmentally protected areas in Australia, including but not limited to:

- national parks, managed by the Commonwealth, states, territories and local governments
- state conservation areas
- nature reserves and regional parks
- Antarctic Specially Protected Areas
- marine parks
- World Heritage listed areas
- Ramsar sites
- biosphere reserves
- indigenous protected areas.

### Locating protected areas

See the [Identifying Land Tenure Guidelines](#)<sup>57</sup> and [Collaborative Australian Protected Area Database](#)<sup>58</sup> (CAPAD) to find out how to locate protected areas.

### Getting permits or approvals

To get permits or approvals to conduct scientific activity in a protected area, contact the relevant authority, listed below:

- Commonwealth of Australia
  - The *Environment Protection and Biodiversity Conservation Act 1999*<sup>59</sup> (the EPBC Act) sets out protections for matters of national environmental significance (listed below). For more information on the EPBC Act, see the section above. The matters of national environmental significance matters protected by the EPBC Act include:
    - declared World Heritage property
    - National Heritage places
    - declared Ramsar wetlands
    - listed threatened species and communities

<sup>57</sup> D2018-96666

<sup>58</sup> <http://www.environment.gov.au/land/nrs/science/capad>

<sup>59</sup> <https://www.legislation.gov.au/Series/C2004A00485>

- listed migratory species
  - nuclear actions
  - Commonwealth marine environments
  - the Great Barrier Reef Marine Park
  - the protection of water resources from coal seam gas development and large coal mining development.
- Some other activities in Commonwealth protected areas that won't necessarily have a significant impact, such as some scientific research, still require a permit.
    - [Commonwealth parks and reserves](#)<sup>60</sup> (including Booderee National Park, Christmas Island National Park, Kakadu National Park, Norfolk Island National Park, Pulu Keeling National Park and Uluru - Kata Tjuta National park)
    - [Marine parks](#)<sup>61</sup> – Each marine park is governed by its own management plan. See the relevant management plan for details about when and where permits are required for scientific research, and how to apply for a permit.
    - Ramsar wetlands – Generally, permits for activities within Ramsar sites are administered by state or territory governments through their regular scientific permit process (see below). However, if the proposed action has, will have, or is likely to have, a significant impact on the ecological character of the Ramsar wetland, you must refer that action to the Minister for Environment and Energy so that the action may undergo an environmental assessment and approval process. Further information about making a referral under the Act can be found at [EPBC approval](#)<sup>62</sup>.
    - [Great Barrier Reef](#)<sup>63</sup>
    - [Antarctic Specially Protected Areas](#)<sup>64</sup>
    - [Heard and McDonald Islands](#)<sup>65</sup>
- [Queensland](#)<sup>66</sup>
    - [Protected area scientific and educational research](#)<sup>67</sup>
    - [Marine park permits and activities](#)<sup>68</sup>

<sup>60</sup> <http://www.environment.gov.au/topics/national-parks/parks-australia/permits-licences-and-leases>

<sup>61</sup> <https://parksaustralia.gov.au/marine/parks/>

<sup>62</sup> [www.environment.gov.au/epbc/approval.html](http://www.environment.gov.au/epbc/approval.html)

<sup>63</sup> <http://www.gbrmpa.gov.au/zoning-permits-and-plans/permits>

<sup>64</sup> <http://www.antarctica.gov.au/environment/environmental-impact-assessment-approvals-and-permits/legislation/antarctic-specially-protected-areas>

<sup>65</sup> <http://heardisland.antarctica.gov.au/protection-and-management/management-plan/permits>

<sup>66</sup> <https://www.qld.gov.au/environment/parks/permits>

<sup>67</sup> <https://www.qld.gov.au/environment/parks/permits/science-education>

<sup>68</sup> <https://www.qld.gov.au/environment/coasts-waterways/marine-parks/permits>

- [Northern Territory](#)<sup>69</sup>
  - [Management plans](#)<sup>70</sup>
- [Western Australia](#)<sup>71</sup> (A Regulation 4 Authority is required to undertake an activity that would otherwise be unlawful, such as removing soil/sediment or accessing areas through locked gates.)
  - [Marine parks and reserves](#)<sup>72</sup>
- [South Australia](#)<sup>73</sup>
  - [Marine parks](#)<sup>74</sup>
- [New South Wales](#)<sup>75</sup>
  - [Marine Protected Areas](#)<sup>76</sup>
- [Victoria](#)<sup>77</sup>
  - [Marine protected areas](#)<sup>78</sup>
- [Tasmania](#)<sup>79</sup>
  - [Marine reserves](#)<sup>80</sup>
- [Australian Capital Territory](#)<sup>81</sup> (A licence under Chapter 11 of the *Nature Conservation Act 2014* is required to undertake an activity that would otherwise be unlawful, such as removing soil or stone from a reserve or using a motor vehicle in a wilderness area.)

## Change history

Version	Date	Change
1.0	17 August 2018	Original version

<sup>69</sup> <https://nt.gov.au/leisure/parks-reserves/permits-for-parks/permits-for-functions-activities-meetings-in-parks>

<sup>70</sup> <https://dtc.nt.gov.au/parks-and-wildlife-commission/park-management-strategies-consultation/management-plans>

<sup>71</sup> <https://www.dpaw.wa.gov.au/plants-and-animals/licences-and-permits/flora-licences>

<sup>72</sup> <https://www.dpaw.wa.gov.au/management/marine/marine-parks-and-reserves>

<sup>73</sup> <https://www.environment.sa.gov.au/managing-natural-resources/plants-and-animals/permits-and-licences/scientific-research-permits/applying-for-a-scientific-research-permit>

<sup>74</sup> <http://www.environment.sa.gov.au/marineparks/permits>

<sup>75</sup> <http://www.environment.nsw.gov.au/licences-and-permits/scientific-licences/apply-for-a-scientific-licence>

<sup>76</sup> <https://www.dpi.nsw.gov.au/fishing/marine-protected-areas>

<sup>77</sup> <https://www.parkconnect.vic.gov.au/scientific-research-permit/>

<sup>78</sup> <http://parkweb.vic.gov.au/explore/find-a-park/marine-protected-areas>

<sup>79</sup> <http://dpi.pwe.tas.gov.au/conservation/publications-forms-and-permits/forms-and-permits/scientific-authorities-to-collect-earth-materials>

<sup>80</sup> <http://www.parks.tas.gov.au/index.aspx?base=397>

<sup>81</sup> [http://www.environment.act.gov.au/\\_data/assets/pdf\\_file/0011/1087517/Application-Form-Nature-Conservation-Licence-in-relation-to-Land-July-2017.pdf](http://www.environment.act.gov.au/_data/assets/pdf_file/0011/1087517/Application-Form-Nature-Conservation-Licence-in-relation-to-Land-July-2017.pdf)